

James L. Potter and
Charlene E. Potter
5721 Tropic Mist St.
Las Vegas, NV 89130
Telephone (702)633-7092
Facsimile (702)633-7092
Plaintiffs in Proper Person

2011 JAN 21 A 9:05

UNITED STATES DISTRICT COURT
District of Nevada

JAMES L. POTTER and
CHARLENE E. POTTER

Plaintiffs

vs.

BANK OF AMERICA HOME LOANS and
BANK OF AMERICA N.A. and
BAC HOME LOANS SERVICING, LP and
MERS (Mortgage Electronic Registration
Systems)

Defendants

Case No.: 2:10-cv-02095-GMN-LRL

OPPOSITION TO DEFENDANTS MOTION
TO DISMISS AMENDED COMPLAINT
And REQUEST FOR DISMISSAL OF
DEFENDANTS MOTION TO DISMISS
AMENDED COMPLAINT

PLAINTIFFS, James L. Potter and Charlene E. Potter, in proper person, hereby submit
their Opposition to Defendants Motion to Dismiss Amended Complaint.

Plaintiffs ask this Honorable Court to take judicial notice of the fact that we appear
without counsel, are not schooled in the law and legal procedures, and are not licensed to
practice law. Therefore our pleadings must be read and construed liberally. Further Plaintiffs
believe that this Court has a responsibility and legal duty to protect any and all of the Plaintiffs'
Constitutional and statutory rights; specifically by the due process clause of the Fifth and
Fourteenth Amendment thereto, which invokes the due process clauses of the Seventh, Fifth and
Fourteenth Amendments to said Constitution upon the States and guarantees to all private

1 citizens the freedom of private property and the separate and, distinct common law jurisdiction
2 of this Court, in accord with the rules of common law related to fiduciary duties.

3 The issue of "Standing" is a basic issue of Constitutional Law either at the Federal level
4 or at the state district court level. That is to say, if you are not the person directly injured or
5 directly benefiting from a specific law or circumstance, you cannot go to court and try to enforce
6 any rights that do not belong to you.

7 The United States Supreme Court in several cases has stated that federal courts must
8 satisfy for themselves that "Standing" exists and that "the Plaintiffs have alleged such a personal
9 stake in the outcome of the controversy as to warrant his invocation of federal-court jurisdiction.
10 "Warth V. Seldin, 422 U.S. 490,498-99 (1975). Thus, if there is no direct injury or direct harm to
11 the party that wishes to pursue a claim in court, then no right to "Standing" or right to be in court,
12 exists in the first place.

13 In the Motion filed with the Court it is evident that the Defendants cannot show
14 ownership of the alleged Mortgage Loan and do not know the true status of the stated loan within
15 their institution. Defendants and/or Legal Counsel state that the Plaintiffs' are in default and
16 have breached their promise to repay the money they borrowed. As of this date, January 21,
17 2011 the Plaintiffs' have evidence that they have never been in the rears in their payments and
18 are current *See* Exhibit A. The Defendants in their motion to dismiss amended complaint made a
19 malicious statement pertaining to the Defendants being in default and published this false
20 statement in a legal document which was submitted to the courts as a matter of public record.
21 One of the Plaintiffs' are in the process of seeking employment and his field requires an in-depth
22 background check by a potential employer where financial information is scrutinized and will
23 lead to non-selection. The Defendants in fact have no evidence of such claim and could be held
24 liable to the Plaintiffs' for potentially causing irreversible harm or injury to the Plaintiffs'. The
25 paramount fundamental issue in this case is Holder in Due Course and that Defendants do not
26 own, have not owned and do not know where the ownership of this mortgage loan resides.

27 Defendants response to the Amended Complaint fails to address the undisputed fact that
28 Bank of America and its subsidiary companies do not own the mortgage loan in question. They

1 have asked for Dismissal by stating Plaintiffs' defaulted on a Mortgage Loan that they can in no
2 way prove ownership of. Plaintiffs' are truly not in default on this loan. Defendants are
3 currently being sued by the State of Nevada, Arizona as well as countless suits being filed in
4 almost every state in the nation for their lack of standing, holder in due course, fraud,
5 mishandling loan documents through their subsidiary companies as well as through MERS.

6 Defendants have been asked for proof of evidence of their ownership of this mortgage by
7 the Plaintiffs" and by failure to hold and possess the original Deed of Trust Mortgage, original
8 note, and other pertinent documents cannot prove their claim. They continue to persist in
9 bringing into the Court unauthenticated copies of documents some of which are from Defendant
10 to the Plaintiffs" that are not signed by anyone. Any of these documents could be taken off the
11 internet which is our contention would be fraud upon the Court. In Defendants reply on page 2,
12 line 25, they request judicial notice of the attached exhibits, thereby asking to be authenticated
13 by the court. Plaintiffs' believe true that to show standing with the Court, Defendants must have
14 access to the original Deed of Trust, the Mortgage Note and supporting original documents. In a
15 Landmark decision in the Supreme Court State of Kansas and on January 7, 2011 the State of
16 Massachusetts Supreme Court in another Landmark decision as to holder in due course. In
17 January 2011, Bank of America has been made to pay 3 BILLION DOLLARS to Fannie Mae
18 and Freddie Mac for their mishandling of mortgage loans and which the mortgage loan in
19 question may be part. These Landmark cases have proven that mortgage banks must prove
20 ownership with original documents instead of mere copies. In the case of Mortgage Electronic
21 Registration Systems, Inc v. Chong, Case No. 2:09-CV-0661-KJD-LRL (2009), the United
22 States District Court, District of Nevada stated that "MERS did not establish it was a real party in
23 interest. MERS was unable to prove it had possession of the note or at least provide evidence
24 that it was a representative of the mortgage loan holder, which it failed to do." Additionally, in a
25 Landmark decision in the Kansas Supreme Court, National Bank v. Kesler, 289
26 Kan.528,216P3.d 158(2009). "Kan Stat. Ann 60-260(b) allows relief from a judgment based on
27 mistake, inadvertence, surprise, or excusable neglect; newly discovered evidence that could not
28 have been timely discovered with due diligence; fraud or misrepresentation; a void judgment; a

judgment that has been satisfied , released, discharged, or is no longer equitable; or any other reason justifying relief from the operation of the judgment. The relationship that the registry had to the bank was more akin to that of a straw man than to a party possessing all the rights given a buyer." Also in September of 2008, a California Judge ruling against MERS concluded, "There is no evidence before the court as to who is the present owner of the Note. The holder of the Note must join in the motion." Wells Fargo v. Reyes, 867 N.Y.S.2d 21(2008). Case dismissed with prejudice, fraud on the Court and Sanctions because Wells Fargo never owned the Mortgage. In LaSalle Bank v. Ahearn, 875 N.Y.S. 2d 595 (2009), that case was dismissed with prejudice - lack of standing. In another case, Novastar Mortgage, Inc, v. Snyder 3:07CV480 (2008), it was ruled that "Novastar has the burden of establishing its standing. It failed to do so.

In reference to the Defendants claim of "failure to deliver an original valid payment instrument to Defendants" on page 2, line 12, the statement that Plaintiffs' have not delivered an original valid payment instrument to Defendants is unsubstantiated. Defendants were sent *See* Exhibit B Notice to Agent is Notice to Principal from an Escrow Agent whom was in receipt of funds and was to release funds when the original note was received. The Escrow Agent then sent the Notice of Opportunity to Cure after the Defendant failed to reply.

LEGAL ARGUMENTS

A. FRCP 8 Requires A Short Plain Statement

Plaintiffs' made their "short and plain statement" in their Amended Complaint page 9, lines 12-28 and page 10 , lines 1-13. Again the paramount fundamental issue in this case is Holder in Due Course.

B. Plaintiffs' improperly lump Defendants together Violation Rule 8

As stated in Defendants Argument on page 2 line 3, Plaintiffs' have sued Bank of America N.A. (BOA), Bank of America Home Loans, a wholly owned subsidiary of BOA, Bank of America Home Loans Servicing LP, a wholly owned subsidiary of BOA, and MERS. It is proper in cases where more than one defendant is adjointed by claim on the mortgage in question that each or all related parties be brought forth in the suit. To support our dismissal of Defendants Motion to Dismiss, they themselves have included a document from MERS under

1 Exhibit C, page 44 which clearly states MERS interest in this mortgage loan in question. We
2 continue to contend the mortgage loan in question was sold through securitization countless
3 times. Once again, the paramount fundamental issue in this case is Holder in Due Course.

4 C. Plaintiffs' Securitization Argument is Meritless

5 Defendants refer to Amended Complaint 2:1-2 which states "Initially, a bank loaned
6 money to the family to buy the family home, but later was paid in full when it sold the loan
7 involved to others". The question is not about the loan but who is the loan holder, which the
8 Amended Complaint supports the Plaintiffs' question of the ownership and Securitization of
9 mortgage loan and the Defendants have failed to provide such proof. The paramount
10 fundamental issue in this case is Holder in Due Course.

11 D-1 Plaintiffs Have Failed to Plead Claims for Fraud

12 Defendants Did Not Originate the Loan

13 Defendants falsely claim that Plaintiffs have stated they were wrongfully induced to enter
14 into an agreement for the loan. Plaintiffs' Amended Complaint statement of fraud in the
15 inducement, based on failure to provide consideration; refusal of settlement, failure to provide
16 full disclosure, failure to provide an opportunity to cancel as required by TILA and due to the
17 fact that *ab initio* no contract was ever formed. The statement from the Defendant that they were
18 not involved in the origination of the loan, supports the Plaintiffs' claim that they cannot prove
19 their claim on the Mortgage. Defendants refer to case law Reed v. Countrywide Bank, FSB,
20 Case No. 2:09-cv-00319 dated March 23, 2009, since then many cases have been turned over and
21 new cases have taken precedence that do not follow the same judgment. The paramount
22 fundamental issue in this case is Holder in Due Course.

23 D-2 Plaintiffs' Fail to Plead Fraud With the Requisite Specificity

24 Defendants argue that Plaintiffs' do not state a claim for fraud which is not the
25 fundamental and paramount issue of this case. Yet in courts in states of Florida, Tennessee,
26 Kentucky, Arkansas, Minnesota, New York, New Jersey, Massachusetts, as well as numerous
27 others, have all brought similar suits against Bank of America and their subsidiaries for various
28

1 fraud in handling of their mortgage loans. Once again, the paramount fundamental issue in this
2 case is Holder in Due Course.

3 D-3 Plaintiffs' Ratified the Loan

4 Defendants claim that the Plaintiffs' ratified the Loan, the Plaintiffs' state this is not about
5 the ratification of the mortgage loan but about Holder in Due Course. Defendants refer to
6 outdated cases that do not support what is currently being brought into court. The paramount
7 fundamental issue in this case is Holder in Due Course.

8 D-4 A Fraud Claim is Barred by Statute of Limitations

9 Defendant refers to common law fraud to being subject to a three-year statute of
10 limitations. Plaintiffs object to Defendants allegations that claims are by Statute of Limitations.
11 Per TILA (Truth in Lending Act) it states that the Three Day Right to Cancel must have a
12 trigger to begin, that trigger, is when the Lender/Agent has provided the Borrower with ALL of
13 the required Disclosures under TILA. It is the Plaintiffs' belief that ALL disclosures were not
14 accurately or clearly made. Once again the paramount fundamental issue is Holder in Due
15 Course.

16 E. Plaintiffs' Have Failed to Plead Any TILA Violations

17 See response given by Plaintiffs' reply to Defendants Legal argument D-1. Again this
18 paramount fundamental issue in this case is Holder in Due Course.

19 F-1 Failure to Accept Tender of Payment Is Not a Valid Claim

20 Plaintiffs' Allegations of Demand and "Tender"

21 In response to statements made on page 9, line 13, failure to accept tender of payment is
22 a rightful claim for voiding the mortgage loan. Plaintiffs' can show that it submitted a payment
23 instrument for the full amount that was rejected by Defendants because conditions for payment
24 stated that the original loan documents must be presented to Acting Agent for the funds.
25 Defendants once again insinuate that BOA defendants' establishment of the amount due to bring
26 the loan current was because they were in default. In fact the Plaintiffs' were never in the rears
27 or delinquent with their payments, thence this statement by the Defendant is false. Again
28 Defendants continue to make false statements against the Plaintiffs' as official court documents

1 and public record, noting page 9, line 26, that "on June 3, 2010 and June 22, 2010, respectively,
 2 BAC sent Plaintiffs' reinstatement letter showing the amount due to bring the loan current and a
 3 Demand/Payoff Statement if Plaintiffs' instead wished to pay off the loan in full. Plaintiffs' still
 4 failed to cure the default." Plaintiffs' contend they did not receive any reinstatement letters, why
 5 would they if there were current and not in default. Plaintiffs' requested the Payoff Demand
 6 Statements from the Defendants on their own, therefore the Defendants' statement that they
 7 notified the Plaintiffs' of the amount due to bring the loan current or curing the default, once
 8 again this is false. The paramount fundamental issue in this case is Holder in Due Course.

9 F-2 The Court Have Rejected Similar Demands and "Tenders"

10 .Defendants claim that courts have rejected similar demands is false. In a current case in
 11 the Eighth Judicial Court, State of Nevada, Ostorga vs. JP Morgan Chase Bank, Case No. A-10-
 12 628624-C, it is Plaintiffs contention that the Defendant in this case without the ability to show
 13 standing with the Court has chosen not to answer the Summons and loose this case by Default
 14 therefore showing that without standing the bank in these types of cases have no defense when
 15 Holder in Due Course is the paramount issue. Additionally, there are Landmark cases that have
 16 proven that mortgage banks must prove ownership with original documents instead of mere
 17 copies. In the case of Mortgage Electronic Registration Systems, Inc v. Chong, Case No. 2:09-
 18 CV-0661-KJD-LRL (2009), the United States District Court, District of Nevada stated that
 19 "MERS did not establish it was a real party in interest. MERS was unable to prove it had
 20 possession of the note or at least provide evidence that it was a representative of the mortgage
 21 loan holder, which it failed to do." Additionally, in a Landmark decision in the Kansas Supreme
 22 Court, National Bank v. Kesler, 289 Kan.528,216P3.d 158(2009). "Kan Stat. Ann 60-260(b)
 23 allows relief from a judgment based on mistake, inadvertence, surprise, or excusable neglect;
 24 newly discovered evidence that could not have been timely discovered with due diligence; fraud
 25 or misrepresentation; a void judgment; a judgment that has been satisfied , released, discharged,
 26 or is no longer equitable; or any other reason justifying relief from the operation of the judgment.
 27 The relationship that the registry had to the bank was more akin to that of a straw man than to a
 28 party possessing all the rights given a buyer." Also in September of 2008, a California Judge

1 ruling against MERS concluded, "There is no evidence before the court as to who is the present
 2 owner of the Note. The holder of the Note must join in the motion." Wells Fargo v. Reyes, 867
 3 N.Y.S.2d 21(2008). Case dismissed with prejudice, fraud on the Court and Sanctions because
 4 Wells Fargo never owned the Mortgage. In LaSalle Bank v. Ahearn, 875 N.Y.S. 2d 595 (2009),
 5 that case was dismissed with prejudice - lack of standing. In another case, Novastar Mortgage,
 6 Inc, v. Snyder 3:07CV480 (2008), it was ruled that "Novastar has the burden of establishing its
 7 standing. It failed to do so. This supports the paramount fundamental issue in this case which is
 8 Holder in Due Course.

9 F-3 Plaintiffs' Demands and "Tender" Are Not Legally Valid

10 Plaintiffs' gave Defendants many opportunities to produce facts or original documents
 11 and Defendants chose to ignore. Plaintiffs' sent their first request to the Defendants on
 12 February 27, 2010, almost 11 months ago and to this date the Defendants have been unable to
 13 meet their request to prove Holder in Due Course.

14 G. Plaintiffs Have Failed to Establish That Moving Defendants Owed a Fiduciary Duty

15 In response to statements made on page 13, line 1 - Plaintiffs' deny that Defendants did
 16 not owe Plaintiffs' a fiduciary duty. Plaintiffs' state that the definition of fiduciary is, a person
 17 who holds assets in trust for a beneficiary; "it is illegal for a fiduciary to misappropriate money
 18 for personal gain" or relating to or of the nature of a legal trust (i.e. the holding of something in
 19 trust for another); "a fiduciary contract"; "in a fiduciary capacity"; "fiducially power"
 20 wordnetweb.princeton.edu/perl/webwn. Again the paramount fundamental issue in this case is
 21 Holder in Due Course.

22 H-1 Defendants' Alleged Failure To Produce the Original Note Is Not A Valid Claim

23 Plaintiffs' "Securitization" Argument is Meritless

24 Recent case laws show this to be false. See F-2. Once again, the paramount fundamental
 25 issue in this case is Holder in Due Course.

26 H-2 Defendants Have No Duty To Produce the Original Note

27 In Defendants reply on page13, line 18-27, page 14, line 1-8, the statement that
 28 Defendants do not need to show the original note has been shown by Landmark decisions in the

1 Supreme Court State of Kansas and on January 7, 2011 in the State of Massachusetts Supreme
2 Court another Landmark decision, as to holder in due course. This supports the paramount
3 fundamental issue in this case which is Holder in Due Course.


4 I. Counterfeit Securities Is Not a Valid Civil Claim

5 In response to statements made on page 14, line 10-22- Defendants claim that Counterfeit
6 securities is not a valid claim is totally rejected by Plaintiffs' and is a cause of action. Once
7 again, the paramount fundamental issue in this case is Holder in Due Course.

8 In conclusion, Defendants in this case cannot show standing - holder in due course-
9 therefore we move that the Court dismiss Defendants Motion to Dismiss for lack of standing in
10 this case and grant Plaintiffs' request to dismiss Defendants Motion for Dismissal.

11 Furthermore, throughout the Defendants Motion for Dismissal they have made false
12 statements referring to the Plaintiffs' status not being current and defaulting on their loan. The
13 Defendants in fact have no evidence of such claim making them liable against the Plaintiffs' due
14 to causing irreversible harm or injury to the Plaintiffs'.

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17 Dated this 21 day of January, 2011

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19 
James L. Potter
Plaintiff
In Proper Person


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Charlene E. Potter
Plaintiff
In Proper Person
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EXHIBIT "A"

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Customer Service
PO Box 5170
Sima Valley, CA 93062-5170

Account Number 103484653

Property address
5721 Tropic Mist Street

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PD AA AG 000-----0-2-1- M22425 IN 1 4 P03204
JAMES L & CHARLENE E POTTER
5721 Tropic Mist St
Las Vegas NV 89130-1567



How Your Loan Amount Can Change

- If your Minimum Payment is less than the Interest Only Payment:
- Your monthly Minimum Payment will not be enough to cover the interest due.
- The interest due, which is not covered by your Minimum Payment, is known as Deferred Interest and will be added to the amount you owe on your loan. Your Principal balance will then increase, which is known as "Negative Amortization".
- Negative Amortization results in reducing the amount of equity you have in your home. Negative Amortization should be managed carefully, so that you are not surprised by significant increases in future Minimum Payments.

FOR CUSTOMER SERVICE: 1.866.653.6183

Your Monthly Home Loan Statement

Snapshot of your Home Loan as of January 04, 2011

Type of Loan	30 Yr Jumbo PayOption ARM w/PMI
Current Principal Balance	\$421,747.98
Original Loan Amount	\$424,000.00
Maximum Limit (see explanation at bottom of page)	115.00%
Margin	2.875%
Interest Rate this Month	3.250%
Remaining Term	24 Years, 7 Months

Payment Due Date: Feb 1, 2011

Late Payment Charge: \$104.67 if payment is not received by Feb 16, 2011

Your Payment Options this Month

The amounts listed below are total payments, including amounts collected for escrow items such as taxes and insurance premiums.

Payment Options	Total Payment	Deferred Interest	Principal/Interest Owed	Outstanding Late Charges**	Escrow	Optional Products***
Option 1 Amortized Payment - This option is not available this month.						
Option 2 15-Year Amortized Payment	\$4,833.64		\$4,273.01		\$560.63	
Option 3 Minimum Payment	\$2,654.01		\$2,093.38		\$560.63	
Option 4 Interest Only Payment - This option is not available this month.						

*Negative amounts (if minus sign) shown in the deferred interest column are added to the principal balance. This results from making a Minimum Payment that is less than the interest due.
**Outstanding late charges up to \$400.00 are reflected in the payment option amount.

—CALL TO LEARN MORE ABOUT TERM LIFE INSURANCE—

What expenses would your family have if you were gone tomorrow? To receive a quote for term life insurance, call 1.800.228.7652 to speak with a licensed agent from Banc of America Insurance Services, Inc.

Bank of America Corporation. All rights reserved. Insurance products are offered through Banc of America Insurance Services, Inc. (doing business in New York as Banc of America Insurance Agency) ("BAISI"). BAISI is a licensed insurance agency and nonbank subsidiary of Bank of America, N.A. BAISI is compensated as an agency for the services it provides to customers on behalf of insurance companies. Such compensation may include commissions and other performance based compensation. Insurance products offered through BAISI:

ARE NOT FDIC INSURED · ARE NOT BANK GUARANTEED · MAY LOSE VALUE · ARE NOT DEPOSITS · ARE NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY · ARE NOT A CONDITION TO ANY BANKING SERVICE OR ACTIVITY

012011 M22425 ARP6W4A1

Your Home Loan Activity this Month

		Breakdown of Payments and Other Amounts								
			Principal/ Deferred Interest*	Interest	Additional Principal	Escrow	Late Charges	Optional Products You Requested	Buy-down Assistance	Unapplied
Date	Description	Amount								
12/15/2010	PMI payment	\$247.33				\$247.33				
12/21/2010	County tax pmt	-755.26				-755.26				
01/03/2011	January payment	2,654.01	947.16	1,146.22		560.63				
01/03/2011	Misc posting	525.99			525.99					
**Ending balance			\$421,747.98							

*Amounts preceded by a (-) sign have been added to the principal balance.

**Please note: The ending principal balance shown above may not be the amount required to pay off your loan. For payoff information, you may use our 24-hour automated information system. Call 1.800.669.5833.

Mortgage-Related Expenses Paid from Your Escrow Account

We are responsible for paying the following mortgage expenses on your behalf, using the money in your escrow account:

Type of Payment	Who Receives the Payment	Your Policy Number or Tax ID	Frequency of Payment	Next Payment Due	Amount Due
Homeowners insurance	Allstate Insurance Co	986325768	Annual	04/01/2011	\$708.28
Monthly PMI		22835464	Monthly	01/01/2011	\$247.33
County taxes	Clark County Treasurer	125-25-414-004	Annual	07/01/2011	\$755.26
County taxes	Clark County Treasurer	125-25-414-004	Annual	09/01/2011	\$755.26
County taxes	Clark County Treasurer	125-25-414-004	Annual	12/01/2011	\$755.26
County taxes	Clark County Treasurer	125-25-414-004	Annual	02/01/2011	\$765.36

➔ When you receive your tax bill, please retain the original bill for your records, as BAC Home Loans Servicing, LP will receive your tax information from another source. Supplemental bills will remain your responsibility and you must pay them directly.

**DID YOU
KNOW?****Payments**

We may charge you a fee (of up to \$40.00) for any payment returned or rejected by your financial institution, subject to applicable law.

All accepted payments of principal and interest will be applied to the longest outstanding installment due, unless otherwise expressly prohibited by law.

Want more flexibility? BAC Home Loans Servicing, LP online payment service, MortgagePay on the Web, allows you to make your payments around the clock. Visit www.bankofamerica.com and check out the demo to see just how easy it is.

You Can Make Your Payment By Phone. There is a \$15.00 fee for using the automated pay-by-phone service, or if you choose to process a payment through a Customer Service Representative, there is a \$20 fee for this service.

**TO
CONTACT
US**

CREDIT REPORTING NOTICE
We may report information about your account to credit bureaus. Late payments, missed payments or other defaults on your account may be reflected in your credit report.

For up-to-the-minute information about the account, use our 24-hour automated information system. To ask us about this statement or account information, call **1.866.653.6183**, Mon - Fri, 8am to 9pm Eastern Time. Calls may be monitored and/or recorded for service quality purposes. *Se habla español.* 1.800.295.0025.
TDD 1.800.300.6407

Please have the account number available when you call.

Or write to us at:
The address for general inquiries and all RESPA Qualified Written Requests is:
BAC Home Loans Servicing, LP, Attn.

Customer Service, CAG-919-01-41, PO Box 5170, Simi Valley, CA 93062-5170

Tax Dept CAG-913-LB-01, PO Box 10211, Van Nuys, CA 91410-0211
Insurance Dept, TX2-977-01-03, PO Box 961296, Fort Worth, TX 76161-0206
Payments, Attn: Remittance Processing PO Box 515503, Los Angeles, CA 90051-6803

*Overnight deliveries LADC Retail Payment Services, CA9-705-09-31, 1000 W Temple Street, Los Angeles, CA 90012-1514

Our website www.bankofamerica.com

Your account information is available in Spanish on the site mentioned above

*The facility at this address does not accept walk-up payments, it accepts overnight mail only. Payments can be made by Phone, Online, Mail, or at Bank of America Banking Centers.



EXHIBIT "B"

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In care of:

Cynthia L. Castellanos,
3316 Mastecraft Ave,
N. Las Vegas, NV 89031

Notary Public For: JAMES L. & CHARLENE E. POTTER

Certified Mail # 7009 0960 0000 7002 0260
Return Receipt Requested
July 18, 2010

To: BANK OF AMERICAN HOME LOANS
BARBARA DESOER - PRESIDENT
P.O. BOX 10227
VAN NUYS, CALIFORNIA, 91410
(hereafter referred to as LENDER/AGENT)

Notice to Agent is Notice to Principal; Notice to Principal is Notice to Agent

Re: **Notice of Fault with regard to the failure of LENDER/AGENT to collect \$433,472.04** held in Escrow for LENDER/AGENTS to settle Account No. 103484653; failure of LENDER/AGENTS to produce the Original Promissory Note (wet ink signature) Required for Release of funds; Funds were made available until July 22, 2010, and will be returned on July 22, 2010.

Notice of Opportunity to Cure! Please advise me within 72 Hours that the Note will be produced and the Funds will be held and be made available for your collection.

Dear BARBARA DESOER - PRESIDENT :

At the request of JAMES L. & CHARLENE E. POTTER, I have held in Escrow for over fourteen days "legal tender funds" in the amount of \$433,472.04 to be paid to LENDER/AGENTS upon production of the original promissory note (wet ink signature) held by you as collateral on loan number 103484653. As of July 18, 2010 I have not heard from you: No one from LENDER/AGENTS has contacted me with regard to the \$433,472.04 I have held for you.

This is my **Notice of Fault and Notice of Opportunity to Cure!** You have **72 hours** from receipt of this notice to collect the funds by tendering the original note to me. JAMES L. & CHARLENE E. POTTER requires this so that the note (wet ink signature) may not be represented for collection. Upon receipt of the original note (wet ink signature), I will forward full payment of \$433,472.04 now held in escrow to you or the agent you designate to receive funds. I am also available to personally exchange funds for the instrument. Contact me as soon as possible to schedule a meeting. JAMES L. & CHARLENE E. POTTER will require that I return his payment to him in just 72 hours from your receipt of this Notice. So please do not delay. Should BANK OF AMERICA HOME LOANS default, on or about July 22, 2010, I will issue an Affidavit of Non Response.

I am not a party to any dealings between LENDER/AGENTS and JAMES L. & CHARLENE E. POTTER, and am merely acting as an Escrow Agent.

Sincerely yours,



Cynthia L. Castellanos – Notary Public/Escrow Agent
cc: JAMES L. & CHARLENE E. POTTER